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STATE OF CALIFORNIA  
NEW MOTOR VEHICLE BOARD  
**MINUTES**

The New Motor Vehicle Board held a General meeting on March 11, 2003, in Hearing Room #1, at the offices of the New Motor Vehicle Board ("Board").

2. **ROLL CALL**

Glenn E. Stevens, President of the Board, called the General meeting to order at 8:37 a.m.

Present:	Robert V. Branzuela	Tom Novi
	Robert T. (Tom) Flesh	Executive Director
	David C. Lizárraga	Howard Weinberg
	Alan J. Skobin	General Counsel
	Glenn E. Stevens	Robin Parker
	David W. Wilson (arrived 8:50 a.m.)	Senior Staff Counsel

Absent: Angelo Quaranta

3. **APPROVAL OF THE MINUTES FROM THE JANUARY 8, 2003, GENERAL MEETING**

Mr. Flesh moved to adopt the January 8, 2003, General Board meeting minutes. Mr. Skobin seconded the motion. The motion carried unanimously.

4. **CONSIDERATION OF PRESENTATION OF RESOLUTION TO FREDERICK E. (FRITZ) HITCHCOCK, FORMER DEALER MEMBER AND PAST PRESIDENT, PRESIDENT EMERITUS, AND VICE PRESIDENT**

Mr. Skobin moved to present a Resolution to Frederick E. (Fritz) Hitchcock, former Dealer member and past President, President Emeritus, and Vice President, in appreciation for his dedication and service to the Board. Mr. Flesh seconded the motion. The motion carried unanimously.

5. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board shall convene in a closed Executive Session to deliberate on the decisions to be reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

The dealer members did not participate in these items because they involved a dispute between a franchisee and franchisor.

a. **CONSIDERATION OF PROPOSED DECISION**

FRESNO DODGE, INC., dba FRESNO DODGE v. DAIMLERCHRYSLER  
MOTORS CORPORATION  
Protest No. PR-1763-01

Consideration of the Administrative Law Judge's Proposed Decision, by the Public members of the Board.

Mr. Stevens informed the members and audience that the matter had been dismissed and was taken off the agenda.

b. **CONSIDERATION OF PROPOSED RULING**

PIONEER CENTRES OF SAN DIEGO, INC. v. LAND ROVER NORTH  
AMERICA, INC.  
Protest No. PR-1827-02

Consideration of the Administrative Law Judge's Proposed Ruling Granting Respondent's Motion to Dismiss Protest, by the Public members of the Board.

Oral arguments were presented before the Public members of the Board. Michael J. Flanagan, Esq., of the Law Offices of Michael J. Flanagan represented Protestant. Colm A. Moran of Kirkpatrick & Lockhart LLP represented Respondent.

After consideration of the oral arguments in Agenda item 5(c), the Public members of the Board deliberated in closed Executive Session. Mr. Flesh moved to adopt the Administrative Law Judge's Proposed Ruling. Mr. Lizárraga seconded the motion. The motion carried unanimously.

c. **CONSIDERATION OF PROPOSED RULING**

**PIONEER CENTRES OF SAN DIEGO, INC. v. LAND ROVER NORTH AMERICA, INC.**

Petition No. P-448-02

Consideration of the Administrative Law Judge's Proposed Ruling Granting Respondent's Motion to Dismiss Petition, by the Public members of the Board.

Oral arguments were presented before the Public members of the Board. Michael J. Flanagan, Esq., of the Law Offices of Michael J. Flanagan represented Petitioner. Colm A. Moran of Kirkpatrick & Lockhart LLP represented Respondent.

The Public members of the Board deliberated in closed Executive Session. Mr. Flesh moved to modify the Administrative Law Judge's Proposed Ruling to allow a hearing on the third cause of action. The Motion to Dismiss is granted as to the first, second, fourth, and fifth causes of action but is denied as to the third cause of action. Mr. Lizárraga seconded the motion. The motion carried unanimously.

6. **OPEN SESSION**

The Public members returned to Open Session. Mr. Stevens announced the decisions on Agenda items 5(b) and 5(c).

7. **APPOINTMENT OF DAVID LIZÁRRAGA TO THE POLICY AND PROCEDURE COMMITTEE, BY GLENN STEVENS, BOARD PRESIDENT**

Under the Parliamentary Procedures, the President appoints members to the various Board Committees. Mr. Stevens appointed David Lizárraga to the Policy and Procedure Committee.

8. **ANNUAL REVIEW OF THE BOARD'S MISSION AND VISION STATEMENTS - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Tom Novi concerning the annual review of the Board's mission and vision statements. Mr. Flesh wanted to clarify the vision statement to include that the Board improves 'industry' relations in resolving disputes and that a reference be made to the Public member education. Mr. Novi indicated that he would revise the mission and vision statements to reflect the comments and this would be agendaized for consideration at the April meeting.

9. **CONSIDERATION OF EMPLOYEE RECOGNITION AWARD RECIPIENT AS RECOMMENDED BY THE BOARD DEVELOPMENT COMMITTEE**

At the July 18, 2000, meeting, the members adopted an Employee Recognition Award Program to award staff for their accomplishments. The staff submitted employee nominations to the Board Development Committee, Tom Flesh, and the Committee ultimately recommended Suzanne Takehara as the recipient. Ms. Takehara is an Executive Assistant in the Legal Program. She manages all the travel arrangements for Board members and staff, and acts as support for all legal clerical assignments. This year, she has also taken on the additional and challenging task of Chair for the California State Employees Campaign. She has been widely praised for her outstanding abilities to complete projects in a timely and accurate manner, and is highly organized and efficient. She is often complimented for her conscientious and professional demeanor, and her positive attitude makes working with her a pleasure. Mr. Flesh moved to adopt the Committee's recommendation. Mr. Skobin seconded the motion. The motion carried unanimously.

10. **BOARD MEMBER EDUCATION CONCERNING CHANGES TO THE ADMINISTRATIVE PROCEDURE ACT, BAGLEY-KEENE OPEN MEETING ACT, POLITICAL REFORM ACT, AND PUBLIC RECORDS ACT - BOARD DEVELOPMENT COMMITTEE**

Annually the Board staff provides an update concerning any statutory changes to the laws that govern the Board's operations and its quasi-judicial functions. Howard Weinberg provided a brief update on the Administrative Procedure Act, Bagley-Keene Open Meeting Act, Political Reform Act, and Public Records Act. The applicable codes and summaries were also provided. Mr. Flesh suggested that future updates not include all of the statutes unless so requested by individual members.

11. **STATUS REPORT CONCERNING THE BOARD'S FINANCIAL CONDITION FOR THE 2ND QUARTER OF FISCAL YEAR 2002-2003 - FISCAL COMMITTEE**

The members were provided with a memorandum from Tom Novi, Dawn Kindel, and Linda Lighter concerning the Board fiscal condition for the second quarter of fiscal year 2002-2003. Ms. Kindel reported that the Board has expended 38% of its appropriated budget which was well within the Board's budget allocation.

12. **STATUS REPORT ON BOARD EXPENDITURE CONTROL EFFORTS - FISCAL COMMITTEE**

In response to Governor Davis' directive concerning the state budget, Tom Novi reported that the Board has reduced its in-state travel. The Board as part of the Department of Motor Vehicles is directed to reduce in-state travel by 35%. To accomplish this, the Board has reduced the number of staff attending the April Board meetings from five to three. Additionally, the June 10, 2003, General meeting has been changed to a Special meeting to further reduce the number of staff and Board member

attendees. Out-of-state travel will be considered at the June meeting.

13. **ANNUAL REVIEW OF THE GUIDELINES FOR ACCESS TO PUBLIC RECORDS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Howard Weinberg concerning the annual review of the Board Guidelines for Access to Public Records. The Guidelines were updated as a result of recent case law and statutory changes to the California Public Records Act.

14. **CONSIDERATION OF THE REVISED NEW MOTOR VEHICLE BOARD DISPUTE RESOLUTION GUIDE FOR ADMINISTRATIVE LAW JUDGES AND OTHERS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a revised version of the *Dispute Resolution Guide for Administrative Law Judges and Others*. Mr. Weinberg reported that the revised version incorporated changes suggested by the Administrative Law Judges and staff. Mr. Weinberg indicated that additional topics for the next version would include official notice, protective orders, records, and informal mediation. Mr. Skobin moved to approve the revised version of the *Dispute Resolution Guide for Administrative Law Judges and Others*. Mr. Lizárraga seconded the motion. The motion carried unanimously.

15. **REPORT ON NONSUBSTANTIVE CHANGES TO TEXT OF SECTIONS 551.15 AND 551.17 OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS (INFORMAL MEDIATION) THAT TAKE EFFECT ON MARCH 6, 2003 - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Robin Parker concerning nonsubstantive regulatory changes to Sections 551.15 and 551.17 of Title 13 of the California Code of Regulations. Ms. Parker reported that the changes were suggested during the Office of Administrative Law review of the final rulemaking packet. It is the Board policy to submit nonsubstantive changes to the Executive Committee for consideration and then report the matter to the Board at its next meeting.

16. **DISCUSSION CONCERNING PENDING LEGISLATION - POLICY AND PROCEDURE COMMITTEE**

- a. Pending Legislation that impacts the Board.
  - (1) Senate Bill 248 (Senator Murray).
  - (2) Senate Bill 298 (Senator Dunn).
- b. Pending Legislation of general interest.
  - (1) Assembly Bill 213 (Assembly Member Leslie).

The members were provided with a memorandum from Tom Novi and Robin Parker summarizing the legislation that impacts the Board and bills of general interest. The summary analyzes the current law, the legislation, and the impact on the Board. Ms.

Parker reported that Assembly Bill 213 was amended to add Vehicle Code section 9951 instead of section 11713.65. In light of the amended, this bill would not be reported on in the future.

17. **EXECUTIVE DIRECTOR'S REPORT**

- a. Administrative Matters.
- b. Status of Protests.
- c. Status of Petitions.
- d. Status of Appeals.
- e. Judicial Review.
- f. Notices Filed Pursuant to Vehicle Code Sections 3060 and 3062.
- g. Other.

Mr. Novi provided the members with a Report on Administrative Matters which identified all pending projects, the Board manager and committee assigned, estimated completion dates, and status. Mr. Stevens indicated that Alan Skobin would function in an ad hoc capacity on the Government and Industry Affairs Committee.

The members were also provided with a copy of the Executive Director's Report.

18. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at 11:20 a.m.

Submitted by

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TOM NOVI  
Executive Director

APPROVED: \_\_\_\_\_

Glenn E. Stevens  
President  
New Motor Vehicle Board

Signatures on file